

§ 10.104 Scope of review; Commission decision.

(a) *Scope of review.* The Commission will ordinarily consider the whole record on review, and base its determination thereon. However, it may limit the issues to those presented in the statement of issues in the brief.

(b) *Decision on review.* On review, the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial decision by the Administrative Law Judge and make any findings or conclusions which in its judgment are proper based on the record in the proceeding. The Commission's decision shall be contained in its opinion and order. In the event the Commission is equally divided as to its decision the initial decision will be affirmed, without opinion.

(c) *Contents of Record.* The record of the proceeding before the Commission for final decision shall include:

(1) The complaint, notice of hearing, answers and any amendments thereto;

(2) Any application, motion or objection made during the course of the proceeding, briefs in support thereof, rulings thereon and exceptions thereto;

(3) Any admission or stipulations between the parties, and documents or papers filed in connection with prehearing conferences; and the record of prehearing conferences, if recorded;

(4) The transcript of testimony taken at the hearing, together with exhibits received at the hearing;

(5) Any statements filed under the shortened procedure;

(6) Portions of the official public records of the Commission specified in any of the above;

(7) Any proposed findings of fact, conclusions of law and briefs in support thereof, which were filed in connection with the hearing;

(8) Any written communication accepted by the Administrative Law Judge pursuant to §§ 10.34 and 10.35 relating to limited participation;

(9) The initial decision and the petition for review;

(10) Any other documents which appear on the docket of the proceeding.

§ 10.105 Review by Commission on its own initiative.

The Commission may on its own initiative, within 30 days after the initial decision has been served on all parties, direct review of any initial decision of an Administrative Law Judge. The Commission shall determine the scope of the review and the issues which will be considered and make provisions for the filing of briefs and oral argument, if deemed appropriate by the Commission. Notice that the Commission has directed review on its own initiative shall be served on all parties by the Proceedings Clerk.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]

§ 10.106 Reconsideration.

Within 15 days after service of a Commission opinion and order any party may file with the Commission a petition for reconsideration of the opinion and order, setting forth the relief desired and the grounds in support thereof. Any petition filed under this section must be confined to new questions raised by the opinion or order and concerning which the petitioner had no opportunity to argue before the Commission. The filing of a petition for reconsideration shall not operate to stay the effective date of the Commission's order.

§ 10.107 Leave to adduce additional evidence.

Any time prior to issuance of the final decision the Commission may, upon its own motion or upon application in writing by any party, after notice to the parties and an opportunity for them to be heard, reopen the hearing for the reception of further evidence. The application shall show to the satisfaction of the Commission that the additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence at the hearing. The Commission may hear the additional evidence or may refer the proceeding to the Administrative Law Judge for the taking of the additional evidence.